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09/772,767	01/30/2001	Satoshi Itoi	1512-9	9415

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EXAMINER
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VENT, JAMIE J

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/772,767

Applicant(s)

ITOI, SATOSHI

Examiner

Jamie Vent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 10-26 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claim 10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-21 rejected under 35 U.S.C. 102(e) as being unpatentable by Morito et al (US 2002/0046178).

#### **[claim 10]**

In regard to Claim 10, Morito et al discloses an apparatus for decoding and recording contents included in a digital broadcast that further includes a copy control code, the apparatus comprising:

- a tuner in communication with a plurality of recording apparatuses and configured to decode the digital broadcast (Figure 1 transmission module 6 as further described in Paragraph 008); and
- a control section in communication with the tuner and the plurality of recording apparatuses, and configured to extract the copy control code

from the digital broadcast cause one or more of the plurality of recording apparatuses to record title content in response to the copy control code.

(Figure 1 shows a control signal embedding module as described in Paragraphs 008-0010 and furthermore the record title content in response to copy control code is described in Paragraphs 0011-0013)

**[claim 11]**

In regard to Claim 11, Morito et al discloses an apparatus wherein the control section is further configured to cause one or more of the plurality of recording apparatuses to record the content when the copy control code indicates that the content may be copied only one time (Paragraphs 0012-0014 describes the control means that controls the event of copy-once signal is detected wherein the signal is recorded onto the appropriate recording medium).

**[claim 12]**

In regard to Claim 12, Morito et al discloses an apparatus wherein the control section is further configured to cause one or more of tile plurality of recording apparatus to record the content when the copy control code indicates that the content may be copied more than one time (Paragraph 0058-0059 describes the copy control information which copies more than one time).

**[claim 13]**

In regard to Claim 13, Morito et al discloses an apparatus wherein the plurality of recording apparatuses includes a first recording apparatuses and the control section is further configured to cause the first recording apparatus to record the content when the

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copy control code indicates that the content may be copied only one time (Figure 4 shows the recording mediums which include optical discs 19 and hard disks 17 wherein the information is appropriately recorded according to copy control information).

**[claim 14]**

In regard to Claim 14, Morito et al discloses an apparatus where the first recording apparatus includes one of an optical drive and a video tape recorder (Figure 12b shows a hard drive 71 and furthermore Figure 12a shows a video recorder 75).

**[claim 15]**

In regard to Claim 15, Morito et al discloses an apparatus wherein the plurality of recording apparatuses further includes a second recording apparatus and the control section is further configured to cause the second recording apparatus to record the content when the copy control code indicates that the content may be copied more than one time (Figure 10 step 12 shows the copy free command which thereby allows recording to all the recording mediums and thereby meets the limitation).

**[claims 16 & 18]**

In regard to Claims 16 and 18, Morito et al discloses an apparatus wherein the second recording apparatus includes a the disk drive (Figure 12b shows the hard disk and Figure 4 shows optical disk drives).

**[claim 17]**

In regard to Claim 17, Morito et al discloses an apparatus wherein the plurality of recording apparatuses further includes a second recording apparatus, and the control section is further configured to cause the second recording apparatus to record title

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content simultaneously with the first recording apparatus when the copy control code indicates that the content may be copied only time one

**[claim 19]**

In regard to Claim 19, Morito et al discloses an apparatus wherein the plurality of recording apparatuses include first, second, and third recording apparatus, and the control section is further configured to cause any one of the first recording apparatus, second recording apparatus and third recording apparatuses to simultaneously record the content when the copy control code indicates that the content may be copied only one time (Figure 10 shows the process that the recording apparatus determines the copy control information as well as the recording medium to be recorded as further described in Paragraphs 0018-0024. Additionally it is noted in Paragraph 0064 discusses the recording mediums that are used for recording as seen in Figures 12a-12b).

**[claim 20]**

In regard to Claim 20, Morito et al discloses an apparatus wherein the first recording apparatus includes an optical disk drive, the second recording apparatus includes a video tape recorder, and the third disk drive includes a hard disk drive (Figure 4 optical disk drive, Figure 12a shows a video recorder 75, and Figure 12b shows a hard disk drive wherein each apparatus can be arranged to be the according recording apparatus for the system).

**[claim 21]**

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In regard to Claim 21, Morito et al discloses an apparatus wherein the control section is further configured to cause the third recording apparatus to record the content when the copy control code indicates that the content may be copied more than one time (Paragraphs 0010-0011 describes the copy free control code representing a copy freely).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Morito et al (US 2002/0046178) in view of Ogino et al (US 6,571,220).

**[claim 22]**

In regard to Claim 22, Morito et al discloses an apparatus wherein the control section; however fails to disclose the apparatus to be configured to delete a portion of the content according to a predetermined rule and cause one or more of the plurality of recording apparatus to record a remaining portion of the content when the copy control code indicates that the content may be copied only one time. Ogino et al discloses a system and method for determining viewing of video information. Furthermore, it is stated in Column 9 Lines 5-53 the extraction/deletion of components that are not related to the control information and furthermore the copying of portions are to be copy relating

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to copy control code. The deletion of portions of the information stream that is not needed for recording or reproducing allows

Claims 23 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Morito et al (US 2002/0046178) in view of Itoh et al (2003/0206632).

**[claim 23]**

In regard to Claim 23, Morito et al discloses an apparatus with control messages; however, fails to disclose that the content includes a commercial message portion and a non-commercial message portion, and the control section is further configured to cause one or more of the plurality of recording apparatuses to record the non-commercial message portion of the content when the copy control code indicates that the content may be copied only one time. Itoh et al discloses a system wherein commercials are detected and are not copy protected and therefore become copy-free segment of the data stream as seen in Figure 2b and further described in Paragraphs 0012-0013. By allowing the system to determine that commercials are copy free allows for proper reproduction of content that surrounds the commercials that may have copy control information of copy once and thereby does not discredit the copy control information of the data stream. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to use the data decoding apparatus, as disclosed by Morito et al, and further incorporate a system that determines commercial messages in the data stream and processes the commercials without disrupting the copy condition of the video stream, as disclosed by Itoh et al.

**[claim 24]**



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In regard to Claim 24, Morito et al discloses an apparatus wherein the control section is further configured to cause one or more of tile plurality of recording apparatus to record the content when the copy control code indicates that the content may be copied more than one time (Paragraph 0058-0059 describes the copy control information which copies more than one time).

Claims 25 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Morito et al (US 2002/0046178) in view of Sawabe et al (6,571,055).

**[claim 25]**

In regard to Claim 25, Morito et al discloses an apparatus wherein the content includes sound data and the control section is further configured to secure two sound streams; however fails to disclose the recording of the sound data into one of the sound streams and fill the other sound stream with a stuffing bit when the copy control code indicates that the content may be copied only one time. Sawabe et al discloses an information-recording medium wherein information comprises a plurality of video and audio information. Figure 2 shows audio stream for recording the received sound of the system. It is noted in Figure 2 stuffing byte 242g is used for additional information to be recorded or to addition onto the recorded audio stream as disclosed in Column 8 Lines 25-67. The use of a stuffing but allows for a smooth recording addition onto the previously recorded audio stream instead of re-recording the entire stream. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of stuffing buts in the audio signal for allowing for the addition of data into the stream, as disclosed by Sawabe et al.

**[claim 26]**

In regard to Claim 26, Morito et al discloses an apparatus wherein the control section is further configured to inhibit recoding into a partially erased and previously recorded area of a recording medium of the plurality of recording apparatuses when the copy control code indicates that the content may be copied only one time (Paragraph 0018-0024 describes the recording permissions that permits the recording to be copied only once).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Contact Information**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie Vent whose telephone number is 571-272-7384. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamie Vent  
12/08/05

  
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Art Unit 262 2617